IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

Tr.Appeal(C).No. 5 of 2007()

Tr.P.C.No.46/07 dated 15/2/07 FILED AGAINST
OP.250/2006 of FAMILY COURT, THIRUVALLA
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: APPELLANTS/PETITIONERS
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1. K.V.PURUSHOTHAMAN, AGED 67 YEARS,
S/O.LATE VELAYUDHAN, PURUSHOTHAMA SADANAM,
PUTHUSSERIMALA P.O., RANNY, PATHANAMTHITTA DIST.

2. SUMATHY PURUSHOTHAMAN, AGED 51 YEARS,
W/O.K.V.PURUSHOTHAMAN, OF DO. DO.

3. AJIMON.P., AGED 27 YEARS,
S/O.K.V.PURUSHOTHAMAN, OF DO.

BY ADV. SRI.S.SANTOSH KUMAR (PERUNAD)

RESPONDENTS: RESPONDENTS
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1. S.ARCHANA, D/O.SREEDHARA PANICKER,
AGED 29 YEARS, LEKHA MANDIRAM, THENGUKAVU P.O.,
MALLASSERY, PRAMADAM VILLAGE, PATHANAMTHITTA
DISTRICT.

2. SIVAPRASAD.P., S/O.K.V.PURUSHOTHAMAN,
PURUSHOTHAMA SADANAM, PUTHUSSERIMALA P.O.,
RANNY, PATHANAMTHITTA DIST.

THIS TRANSFER APPEAL(CIVIL) HAVING COME UP FOR ADMISSION ON 09/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & K.T.SANKARAN, JJ.

Transfer Appeal No.5 of 2007

Dated 9th March, 2007.

J U D G M E N T

Kurian Joseph, J.

This appeal is filed against the order dated 15.2.2007 in Transfer Petition (Civil) No.46 of 2007. The appellants are the petitioners in the transfer petition. They approached this Court praying for an order for transferring O.P.No.250/06 pending before the Family Court, Thiruvalla, alleging that the Family Court was insisting for the production of the second respondent, lest they should face very serious consequences. Second respondent is the son of appellants 1 and 2 and the husband of the first respondent. The first respondent is the petitioner before the Family Court. According to the appellants herein, since the second respondent is working in Assam Rifles, and presently posted at Tripura, he would be in a position to go over to Kerala and defend the case only by May, 2007. It is also submitted that only on his reaching Kerala, steps could be taken for setting aside the ex parte order passed against him. That appears to be a valid reason, since it is not owing to any laches either on the part of the appellants herein or on the part of the second respondent

that the second respondent is not able to be present before the Family Court. It is not a situation apparently the second respondent evading the process. Appellants may file an appropriate petition before the Family Court, Thiruvalla indicating the date on which the second respondent would be in a position to be available in Kerala in the month of May, 2007, within a period of ten days from today. If such a petition is filed, the Family Court, Thiruvalla shall consider the same and only after passing appropriate orders in the petition in the light of the observations made in this judgment, any further orders in O.P.No.250/06 shall be passed.

KURIAN JOSEPH, JUDGE.

K.T.SANKARAN, JUDGE.

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KURIAN JOSEPH & K.T.SANKARAN, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 8th March, 2007.